

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Jenkins	Conf. No.:	6409
Serial No.:	10/681,910	Art Unit:	2166
Filing Date:	10/09/2003	Examiner:	Harper, Leon Jonathan.
Title:	COMPUTER-IMPLEMENTED METHOD, SYSTEM AND PROGRAM PRODUCT FOR REVIEWING A MESSAGE ASSOCIATED WITH COMPUTER PROGRAM CODE	Docket No.:	RSW920030213US1 (IBMR-0056)

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Commissioner for Patents
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

Sir:

Applicants respectfully request a panel of experienced examiners perform a detailed review of appealable issues for the above-identified patent application pursuant to the Pre-Appeal Brief Conference Pilot Program. Applicants submit that the above-identified application is not in condition for appeal because the Office has failed to establish a *prima facie* case of obviousness based on an error in facts. Claims 1-32 are pending in this application.

Turning to the rejection, in the Final Office Action, claims 1-32 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over US 20020120918, hereinafter “Aizenbud”, in view of US Patent No. 6732153, hereinafter “Jakobson.” Applicants submit that this rejection is clearly not proper and without basis because at least one claim limitation is not met by the combined features of the references cited by the Office.

As argued in the April 25, 2008 Amendment, the cited references fail to teach or suggest each and every element of independent claim 1. In particular, the references cited by the Office

fail to teach or suggest that the message is crafted by a developer in association with development of a computer program code and delivered by the computer program code to an end user in response to an event during execution of the computer program code. April 25, 2008 Amendment, page 10, final paragraph through page 11, continuation paragraph. The Examiner focuses on the word association in the limitation, stating that “...the only requirement is that the message is crafted by a developed *in association* with development of a computer program.” Final Office Action, page 7.

However, the Examiner’s statement ignores the fact that the limitation refers both to development and execution of the computer program code. To this extent, development of the computer program code in the limitation is distinct from the execution thereof and not associated therewith. In contrast, in the passages of Aizenbud cited by the Office, the messages are generated at run time, and there is no mention of development. Furthermore, the messages in Aizenbud are generated by the computer and not crafted by a developer. Thus, the references fail to teach or suggest messages that are developed in association with development by a developer and for delivery to an end user during execution.

As further argued in the April 25, 2008 Amendment, the cited references also fail to teach or suggest that the reviewing of the message is done during development of the program code. See April 25, 2008 Amendment, page 11, first full paragraph. In stark contrast, the processing of Aizenbud is performed by message processing nodes that are located along the path that a message takes between an input queue and a target queue. Aizenbud, para. 0054. As such, the processing in Aizenbud occurs after the message has already been sent, and not during development of the program code that sends the message as in the claimed invention. Thus, the

cited references fail to teach the development-time reviewing of messages as in the claimed invention.

As still further argued in the April 25, 2008 Request for Reconsideration, the cited references also fail to teach or suggest that the review standard includes review parameters selected from a group consisting of: character limits, line limits, spell checks, grammar checks and a combination thereof. April 25, 2008 Amendment, page 11, final paragraph through page 12, continuation paragraph. The Office asserts in its remarks that Aizenbud discloses reviewing a message based on character limits. However, the passage of Aizenbud cited by the Office teaches that its processing “...may cover a range of activities including reformatting of a message, transformation of a message (e.g., adding, deleting, or updating fields), routing of a message, archiving a message into a message warehouse, or merging of database information into the message content.” Para. 0054. None of these processing functions of Aizenbud includes reviewing a message based on character limits. Thus, the cited references do not teach or suggest the review parameters of the claimed invention.

As yet still further argued in the April 25, 2008 Request for Reconsideration, the cited references also fail to teach or suggest that the claimed message is crafted in a natural language and that the review standard is for natural language messages. April 25, 2008 Amendment, page 12, first full paragraph. The Office fails to address this limitation in the Response to Arguments section of its Final Office Action. However, as stated by Applicants in the Amendment of April 25, 2008, the messages of Aizenbud are machine messages from one computer to another and are not taught as being in a natural language (e.g., English, Spanish, French, Japanese, etc.). To this extent, any review of the Aizenbud messages are not based on a review standard for natural

language messages. Thus, the cited references do not teach or suggest the natural language messages of the claimed invention.

Accordingly, the Office has failed to state a *prima facie* case of obviousness and this application is not in condition for appeal and should either be allowed as is, or re-opened for further prosecution.

With respect to the rejections of independent claims 11 and 22, Applicants note that each claim includes a feature similar in scope to the features discussed herein with respect to claim 1. Further, the Office relies on the same arguments and interpretations of the cited references as discussed above with respect to claim 1. To this extent, Applicants herein incorporate the arguments presented above with respect to claim 1, and respectfully request withdrawal of the rejections of these claims for the above-stated reasons.

The dependent claims are believed to be allowable based on the above arguments regarding the claims from which they depend, as well as for their own additional features.

Applicants respectfully submit that the application is not in condition for appeal. Should the examining panel believe that anything further is necessary to place the application in better condition for allowance or for appeal, they are requested to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,

/Hunter E. Webb/

Date: October 29, 2008

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